



Proposed Regulation Agency Background Document

| | |
|--|--|
| Agency name | Virginia Department of Labor and Industry |
| Virginia Administrative Code (VAC) citation | New: 16 VAC 25-95; 16 VAC 25-177 Amend: 16 VAC 25-90-1910.151(a)-(c); 16 VAC 25-175-1926.50 (a)-(g) |
| Regulation title | 16 VAC 25-95, Medical Services and First Aid Standards for General Industry, and for 16 VAC 25-177, Medical Services and First Aid Standards for the Construction Industry |
| Action title | Proposed regulation to amend the Medical Services and First Aid Standards for General Industry, §1910.151 and for the Construction Industry, §1926.50 |
| Date this document prepared | September 4, 2008 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The VOSH Program seeks the amendment of medical services and first aid regulations for general industry, §16 VAC 25-90-1910.151(a)-(c), and the construction industry, §16 VAC 25-175-1926.50 (a)-(g), to require employers to train employee(s) to render first aid and cardio pulmonary resuscitation (CPR) when employees are exposed to occupational hazards which could result in serious physical harm or death. Worksites covered by the current regulations that do not contain occupational hazards which could result in serious physical harm or death will be exempted from first aid and CPR requirements under the proposed regulations.

Under the proposed regulations, 16 VAC 25-95 (general industry) and 16 VAC 25-177 (construction industry), employers at worksites containing job classifications or workplace hazards that could expose employees to serious physical harm or death would be required to have at each job site and for each work shift at least one employee trained in first aid and CPR. Other issues that are addressed in the proposed language include:

- A. Allowing an employer to make written arrangements with other contractors/employers on the same job site to provide designated employees to serve as first aid/CPR responders, to lessen the cost of

- compliance with the regulation;
- B. Clarifying that employers of mobile work crews (i.e., crews that travel to more than one worksite per day) of two or more employees that assign employees to travel to worksites or engage in work activities that could potentially expose those employees to serious physical harm or death shall either:
1. Assure that at least one employee on the mobile crew is designated and adequately trained to render immediate first aid and CPR during all work shifts; or
 2. Make written arrangements with other contractors/employers on the same job sites to provide designated employees to serve as first aid responders.
- C. Clarifying that employers of individual mobile employees (i.e., an employee who travels alone to more than one worksite per day), that assign employees to travel to worksites or engage in work activities that could potentially expose those employees to serious physical harm or death shall either:
1. Assure that the mobile employee is adequately trained to self-administer first aid;
 2. Make written arrangements with other contractors/employers on the same job sites to provide designated employees to serve as first aid responders; or
 3. Assure that their employees have access to a communication system that will allow them to immediately request medical assistance through a 911 emergency call or comparable communication system.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Safety and Health Codes Board is authorized to regulate occupational safety and health under Title 40.1-22(5) of the *Code of Virginia* to:

“... adopt, alter, amend, or repeal rules and regulations to further, protect and promote the safety and health of employees in places of employment over which it has jurisdiction and to effect compliance with the federal OSH Act of 1970...as may be necessary to carry out its functions established under this title”.

In this same statutory section, the Board is further mandated:

“In making such rules and regulations to protect the occupational safety and health of employees, the Board shall adopt the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence that no employee will suffer material impairment of health or functional capacity”.

“However, such standards shall be at least as stringent as the standards promulgated by the federal OSH Act of 1970 (P.L.91-596). In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field,

the feasibility of the standards, and experiences gained under this and other health and safety laws.”

Va. Code §40.1-51.3:2 provides legal protection for an employer if the proposed regulations were to become final and the employer was found to be in violation:

“In the trial of any action to recover for personal injury or property damage sustained by any party, in which action it is alleged that an employer acted in violation of or failed to act in accordance with any provision of this chapter or any state or federal occupational safety, health and safety standards act, the fact of the issuance of a **citation**, the **voluntary payment of a civil penalty** by a party charged with a violation, or the **judicial assessment of a civil penalty** under this chapter or any such state or federal occupational safety, health and safety standards act, **shall not be admissible in evidence.**” (Emphasis added.)

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

Purpose

The purpose of the proposed changes is to that assure that construction and general industry employers on worksites containing job classifications or workplace hazards that could expose employees to serious physical harm or death, designate and train a person or persons to render first aid and CPR during all workshifts. The changes are also designed to provide employers with some flexibility to make arrangements for the provision of first aid and CPR services on individual work sites. In addition, the proposed changes also clarify requirements for employers of mobile crews and individual mobile employees.

Current Regulatory Framework : The Existing Regulations are Confusing and Difficult for Employers to Comply With and Difficult for the Department to Enforce

The current first aid regulations, which are identical to their federal OSHA counterparts and are the subject of this rulemaking, apply to all general industry and construction employers:

Section 16 VAC 25-90-1910.151(b) of the General Industry Regulation for Medical and First Aid provides that “In the absence of an infirmary, clinic, or hospital in **near proximity** to the workplace which is used for the treatment of all injured employees, a person or persons shall be adequately trained to render first aid....” (Emphasis added).

Section 16 VAC 25-175-1926.50(c) of the Construction Regulation for Medical Services and First Aid provides: “In the absence of an infirmary, clinic, hospital or physician, that is **reasonably accessible** in terms of time and distance to the worksite, which is available for the treatment of injured employees, a person who has a valid certificate in first aid training....” (Emphasis added).

Both existing regulations lack clarity and are difficult for employers to comply with and for the VOSH Program to enforce. For instance, the existing regulations do not define the terms “near proximity” and “reasonably accessible.” These phrases have been interpreted by federal OSHA to mean that all general industry and construction employers must have either an employee trained in first aid, or:

their worksite must be located within a 3 to 4 minute response time of a hospital, clinic or infirmary if the worksite contains workplace hazards that could cause life threatening injuries; or

their worksite must be located within a 15 minute response time of a hospital, clinic, or infirmary if the worksite does not contain workplace hazards that could cause life threatening injuries.

According to statistics for 2003 from the Department of Emergency Medical Services (EMS) website, EMS providers arrived at the scene of 522,345 calls **with an average response time of approximately 12 minutes.** Approximately 72 % of all reported calls were provided in less than 10 minutes, and approximately 87 % of all reported calls were provided in less than 15 minutes.

The Department requested more recent data from EMS for statewide response times for all calls as well as calls for industrial sites specifically for the years 2004 through 2006 (“Industrial premises” includes “building under construction, dockyard, dry dock, factory building or premises, garage (place of work), industrial yard, loading platform in factory or store, industrial plant, railway yard, shop (place of work), warehouse and workhouse.” Source: PPCR/PPDR Program Data Element Dictionary):

| |
|--|
| <p>Statewide Response Time Statistics by Year</p> <p>"Response time" defined as "Arrived at Scene" minus "Dispatched"</p> |
|--|

| | 2004 | 2005 | 2006 |
|---|-------|-------|-------|
| All Cases: Response Time | | | |
| 1-3 minutes | 13.0% | 12.9% | 12.5% |
| 4-15 minutes | 74.6% | 74.7% | 75.1% |
| 15-100 minutes | 12.4% | 12.5% | 12.5% |
| Mean (Average) in minutes | 8.89 | 8.94 | 8.96 |
| Industrial Sites Only: Response Time | | | |
| 1-3 minutes | 19.2% | 19.3% | 20.9% |
| 4-15 minutes | 75.1% | 73.9% | 72.2% |
| 15-100 minutes | 5.7% | 6.8% | 6.9% |
| Mean (Average) in minutes | 7.10 | 7.58 | 7.34 |

NOTE 1: Calculation of the above response times is from the time “dispatched” to the time of “arrived at scene.” Although the PPCR/PPDR Program Data Element Dictionary indicates that there is a data field called “Time of Call” defined as “Time call is

first received by Public Safety Answering Point (PSAP) or other designated entity,” VOSH was informed by EMS that “Time of Call” data is not regularly available to the local EMS responders to enter into the reporting system. Therefore, the 2004-2006 data supplied by EMS underreports the average response times because it does not include the time it takes for the 911 call to be received and then referred to the local EMS provider.

NOTE 2: *Calculation of the above response times is limited to data where a response time of between 1 minute and 100 minutes was reported. EMS personnel indicated that this approach was used to eliminate some obviously inaccurate data in the system (e.g., response times in the negatives, response times that were several days, etc.).*

As the more recent statistics above indicate, the average EMS response time for all cases statewide has been approximately 9 minutes for the last three years (more than twice the 3-4 minute response time required by OSHA for life threatening injuries), while the average response time to industrial sites falls between 7 and 7.5 minutes, which is 75% above the 3-4 minute requirement. Furthermore, the chart demonstrates that for all cases statewide, only 12.5 to 13% of the responses occur within the 3-4 minute requirement for life threatening injuries, while from 19 to 21% of the responses occur to industrial sites within the 3-4 minute requirement.

The above statistics graphically demonstrate that the large majority of employers in Virginia fail to meet the 3-4 minute exemption contained in the interpretations for the current VOSH first aid regulations for construction and general industry that would allow them to avoid having a trained first aid provider on site (the OSHA 3-4 minute interpretation applies to worksites with hazards that could cause life threatening injuries).

Another difficulty with the current first aid regulations is that neither the current regulations nor federal OSHA interpretations provide clear guidance to employers of mobile work crews who are exposed to hazards that could cause death or serious physical harm. The proposed changes specifically provide compliance options for such covered employers.

Finally, to assure compliance with the current regulations, both employers and the VOSH Program are often faced with having to document whether an infirmary, clinic or hospital would be accessible within 3-4 minutes or 15 minutes. This may include going to such lengths as having to drive from the inspection site to the facility, or by contacting the nearest rescue squad to determine what the normal response time would be to the specific worksite. Even in such cases where response time information may be readily available, the response time for emergency responders to a particular site can vary widely from day to day depending on such factors as whether the worksite is in an urban or rural location (see discussion below on geographic differences in EMS response times around the state), whether the medical/emergency response facility is staffed 24 hours a day or not, and such vagaries as traffic congestion, road construction and weather. For these reasons under the current regulations, the vast majority of injured employees cannot receive timely, reliable and consistent first aid response to injuries suffered on the job if there is no trained first aid responder on site.

Existing Regulations Do Not Provide Adequate First Aid and CPR Protections for Employees

The existing general industry and construction first aid regulations do not assure that adequate first aid attention for employees will be provided in certain hazardous situations. For instance, current regulations do not require CPR training for designated first aid providers, nor do they clearly state that designated

first aid providers will be available at each hazardous work location and each work shift. The proposed changes correct these oversights.

In addition, the current regulations allow an employer to physically move an employee who had suffered a head/spinal injury or other serious injury by transporting them to a medical facility that is within 3 to 4 minutes driving distance, in lieu of having a trained first aid responder on site to administer first aid and CPR while Emergency Response Personnel are in route.

Existing Regulations Do Not Provide Equal First Aid/CPR Treatment Opportunities for Similarly Exposed Employees

The current regulations do not provide the same level of first aid and CPR protection for employees in different general industry and construction settings who are exposed to similar kinds of serious and life threatening workplace hazards. For instance, a number of current industry specific regulations require general industry and construction employers to assure that one or more employees trained in first aid and CPR are present at each worksite and workshift:

General Industry

Logging Industry employers must assure that all logging employees receive first aid and CPR training - §16 VAC 25-90-1910.266(i)(7);

Electric Power Generation, Transmission and Distribution Industry employers must assure that trained first aid and CPR providers are present for field work and fixed work locations - §16 VAC 25-90-1910.269(b)(1);

Employers engaged in **Welding, Cutting and Brazing** must assure that first aid can be rendered to an injured employee until medical attention can be provided - §16 VAC 25-90-1910.252(c)(13);

Telecommunications Industry employers must assure that employees are trained in first aid and CPR - §16 VAC 25-90-1910.268(c)(3);

Employers with a **Temporary Labor Camp** must assure that a trained first aid and CPR provider is present at the camp - §16 VAC 25-90-1910.142(k)(2);

Commercial Dive Operation employers must assure that all dive team members are trained in first aid and CPR - §16 VAC 25-90-1910.410(a)(3).

Construction Industry

Power Generation and Distribution employers must assure that employees are trained in first aid and CPR - §16 VAC 25-175-1926.950(e)(1)(ii);

Employers involved in **Underground Construction, Caissons, Cofferdams and Compressed Air** must provide a first aid station at each project (see §16 VAC 25-175-1926.803(b)(7));

Employees in the above industries benefit from greater first aid and CPR protections than employees who, for instance, work in construction around but not on overhead high voltage lines (contact with overhead

high voltage lines is regularly one of the top four causes of occupationally related VOSH fatalities). The proposed changes assure that all construction and general industry employees exposed to hazards that could cause death or serious physical harm are provided an equal level of first aid and CPR protection.

The Department also requested recent data from EMS for statewide response times for calls for industrial sites broken down by geographic region for the years 2004 through 2006 (“Industrial premises” includes “building under construction, dockyard, dry dock, factory building or premises, garage (place of work), industrial yard, loading platform in factory or store, industrial plant, railway yard, shop (place of work), warehouse and workhouse.” Source: PPCR/PPDR Program Data Element Dictionary):

Statewide Response Time Statistics by Year for Industrial Sites Only
 "Response time" defined as "Arrived at Scene" minus "Dispatched"

| Industrial Sites | 2004 Response Times | | | 2005 Response Times | | | 2006 Response Times | | |
|--------------------|------------------------|--------------|------------|------------------------|--------------|------------|------------------------|--------------|------------|
| | 1-3 | 4-15 | Avg | 1-3 | 4-15 | Avg | 1-3 | 4-15 | Avg |
| No Region Listed | 22.3% | 69.2% | 7.7 | 26.5% | 63.6% | 8.2 | 52.4% | 44.6% | 4.7 |
| BLUE RIDGE | 6.0% | 67.8% | 12.1 | 8.9% | 64.2% | 13.0 | 9.5% | 73.6% | 10.5 |
| CENTRAL SHENANDOAH | 11.1% | 82.9% | 8.1 | 16.3% | 79.2% | 7.6 | 18.9% | 73.2% | 7.8 |
| LORD FAIRFAX | 7.8% | 85.4% | 8.6 | 10.1% | 82.6% | 8.5 | 8.9% | 81.8% | 8.7 |
| NORTHERN VIRGINIA | 18.3% | 78.3% | 6.4 | 13.2% | 81.6% | 7.7 | 12.1% | 84.1% | 7.2 |
| OLD DOMINION | 17.2% | 77.7% | 7.2 | 15.4% | 79.0% | 7.2 | 15.7% | 79.3% | 6.9 |
| PENINSULAS | 44.1% | 53.1% | 4.8 | 41.1% | 56.4% | 4.9 | 46.1% | 51.5% | 4.9 |
| RAPPAHANNOCK | 13.1% | 77.2% | 8.5 | 10.9% | 80.2% | 8.8 | 13.5% | 74.3% | 9.2 |
| SOUTHWEST VIRGINIA | 9.5% | 73.1% | 10.4 | 12.6% | 67.0% | 10.5 | 13.2% | 69.1% | 10.0 |
| THOMAS JEFFERSON | 9.9% | 67.3% | 11.3 | 10.7% | 76.2% | 10.0 | 7.1% | 66.9% | 12.0 |
| TIDEWATER | 15.1% | 79.1% | 7.6 | 12.3% | 82.7% | 7.8 | 11.4% | 83.1% | 7.6 |
| WESTERN VIRGINIA | 25.9% | 66.9% | 7.2 | 26.2% | 69.1% | 6.8 | 22.5% | 72.7% | 6.9 |
| Total | 19.1% | 75.1% | 7.1 | 19.1% | 74.0% | 7.6 | 20.7% | 72.3% | 7.3 |

NOTE 1: Calculation of the above response times is from the time “dispatched” to the time of “arrived at scene.” Although the PPCR/PPDR Program Data Element Dictionary indicates that there is a data field called “Time of Call” defined as “Time call is first received by Public Safety Answering Point (PSAP) or other designated entity,” VOSH was informed by EMS that “Time of Call” data is not regularly available to the local EMS responders to enter into the reporting system. Therefore, the 2004-2006 data supplied by EMS underreports the average response times because it does not include the time it takes for the 911 call to be received and then referred to the local EMS provider.

NOTE 2: Calculation of the above response times is limited to data where a response time of between 1 minute and 100 minutes was reported. EMS personnel indicated that this approach was used to eliminate some obviously inaccurate data in the system (e.g. response times in the negatives, response times that were several days, etc.).

As the above statistics indicate, there is a wide disparity in EMS response times across the state based on geographic region. For instance in 2006 there is a range of a low of 7.1% of EMS responses occurring

within 1-3 minutes in the Thomas Jefferson region to a high of 46.1% within 1-3 minutes in the Peninsulas region; while the average response times range from 4.9 minutes in the Peninsulas’ region to 12 minutes in the Thomas Jefferson region.

Again, the above statistics graphically demonstrate that the large majority of employers in Virginia cannot meet the 3-4 minute exemption contained in the interpretations for the exemption contained in the current VOSH first aid regulations for construction and general industry that would allow them to avoid having a trained first aid provider on site (the 3-4 minute interpretation applies to worksites with hazards that could cause life threatening injuries). In addition, the geographic disparities in response time demonstrate that the current regulations do not provide equal access to adequate first aid and CPR protections for employees.

The Existing General Industry First Aid Regulation is Overreaching

The current general industry regulation is overreaching in that it applies to all general industry employers, even when there are no workplace hazards present that could pose a threat of serious physical harm or death, such as in office settings (it should be noted that, with rare exceptions, construction worksites are universally acknowledged to contain both job classifications and workplace hazards that are likely to cause death or serious physical harm). The proposed regulations will exclude worksites that do not contain such serious hazards from the requirement to provide designated employees with first aid and CPR training.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)

The VOSH Program seeks the amendment of medical services and first aid regulations for general industry §1910.151(b), and the construction industry, §1926.50(c) to require construction and general industry employers to train and designate a person or persons to render first aid and CPR during all workshifts on worksites containing job classifications or workplace hazards that could expose employees to serious physical harm or death; and to provide employers with some flexibility to make arrangements for first aid and CPR services on individual work sites. The proposed regulations will also exclude certain low hazard industries and employers from the requirement to provide first aid and CPR training. In addition, the proposed changes also clarify requirements for employers of mobile crews and individual mobile employees.

Issues

- Please identify the issues associated with the proposed regulatory action, including:*
- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
 - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

A primary advantage of the proposed regulation is that employers covered by the proposed regulation would be required to have at each job site and for each work shift at least one employee trained in first aid and CPR, thereby increasing protection of their employees.

The proposed changes eliminate inequities contained in the existing regulations by assuring all construction and general industry employees exposed to hazards that could cause death or serious physical harm equal access to first aid and CPR services, regardless of their specific industrial or construction setting, or the geographical location of their work. As noted in the "Purpose" section above, only employees engaged in the following industries benefit from regulations requiring the immediate presence of first aid/CPR trained providers at their worksite:

Logging

Electric Power Generation, Transmission and Distribution (General Industry)

Power Generation and Distribution (Construction Industry)

Welding, Cutting and Brazing

Telecommunications

Temporary Labor Camp (Migrant Labor)

Commercial Dive Operation

Underground Construction, Caissons, Cofferdams and Compressed Air

A disadvantage is that some employers would have to incur the additional cost of securing such training, although many employers currently already assure that some employees are trained in first aid and CPR.

Another advantage to employers would be that costs associated with compliance with the proposed regulation will be lessened by the specific language in the proposal that allows an employer to make written arrangements with other contractors/employers on the same job site to provide designated employees to serve as first aid and CPR responders.

Also, costs associated with the current regulation will be eliminated for employers on worksites where there are no hazards that could result in serious physical harm or death, by excluding such worksites from coverage.

Additionally, the proposed changes eliminate confusion and clarify requirements for employers of mobile crews and individual mobile employees.

Finally, to assure compliance with the current regulations, both employers and the VOSH Program are often faced with having to document whether an infirmary, clinic or hospital would be accessible within 3-4 minutes by going to such lengths as having to drive from the inspection site to the facility, or by contacting the nearest rescue squad to determine what their normal response time would be to the specific worksite (see above discussion of federal OSHA interpretations in the "Purpose" section). The proposed changes eliminate the 3-4 minute and 15 minute interpretation requirements.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

In the existing federal identical regulations for general industry, 16 VAC 25-90-1910.151(b), and construction, 16 VAC 25-175-1926.50(c), first aid regulations do not assure that adequate first aid and CPR attention for employees will be provided in certain hazardous situations.

The current regulations allow an employer to physically move an employee who had suffered a head/spinal or other serious injury by transporting them to a medical facility in an area, in lieu of having a trained first aid responder present to provide immediate first aid while emergency response personnel are in route. As discussed in the "Purpose" section above, the current federal regulations do not define the terms "near proximity" and "reasonably accessible," which have been formally interpreted by federal OSHA to mean a 3 to 4 minute response time for life threatening injuries and up to 15 minutes for non-life threatening injuries.

Based on 2003 statistics from the Department of Emergency Medical Services (EMS) website, the average response time for emergency calls in Virginia was approximately 12 minutes. More recent statistics provided by EMS to the Department for the years 2004 through 2006 and discussed in the Purpose section above indicate the average EMS response time for all cases statewide has been approximately 9 minutes for the last three years (more than twice the 3-4 minute response time required for life threatening injuries), while the average response time to industrial sites falls between 7 and 7.5 minutes (a minimum of 75% above the 3-4 minute requirement). Furthermore, for all cases statewide only 12.5 to 13% of the responses occur within the 3-4 minute requirement for life threatening injuries, while from 19 to 21% of the responses occur to industrial sites within the 3-4 minute requirement.

In addition, as discussed above in the Purpose section, there is a wide disparity in EMS response times across the state based on geographic region. For instance, in 2006 there is a range of a low of 7.1% of EMS responses occurring within 1-3 minutes in the Thomas Jefferson region to a high of 46.1% within 1-3 minutes in the Peninsulas' region; while the average response times range from 4.9 minutes in the Peninsulas' region to 12 minutes in the Thomas Jefferson region.

The response time for emergency responders varies widely around the state and is dependant upon such factors as whether the establishment or worksite is in an urban or rural location, and whether the medical/emergency response facility is staffed 24 hours a day. Response times are further impacted by traffic congestion, road construction and weather. Therefore, injured employees are unlikely to consistently receive timely, reliable and consistent first aid/CPR response to injuries suffered on the job especially in cases of life threatening injuries under current regulatory requirements and actual response times. The proposed changes eliminate the exceptions contained in the current regulations that allow an employer to forgo the requirement to have an employee or employees trained in first aid if an infirmary, clinic, or hospital is in **near proximity** to a general industry worksite or is **reasonably accessible** in terms of time and distance to a construction worksite.

The existing federal identical regulations do not include a requirement for training to include CPR as well as first aid; nor do they clearly state that designated first aid providers will be available at each work location and work shift. The proposed changes specifically include a requirement for CPR training and further provide that a first aid/CPR responder must be available for all workshifts.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities that are particularly affected by the proposed regulation.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the current regulations versus the costs and benefits of the proposal along with any potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to Mr. Jay Withrow, Director, Office of Legal Support, Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, VA 23219-4104; telephone # 804.786.9873; fax #: 804.786.8418; Jay.Withrow@doli.virginia.gov Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

| | |
|---|--|
| <p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p> | <p>There is no significant fiscal impact to the state beyond the cost of promulgating this regulation. The Virginia Occupational Safety and Health (VOSH) program currently enforces federal identical regulations for general industry, 16 VAC 25-90-1910.151, and construction, 16 VAC 25-175-1926.50. No additional enforcement costs are anticipated for the proposed regulations.</p> |
| <p>Projected cost of the regulation on localities</p> | <p>As previously noted, the current regulations apply</p> |

| | |
|--|---|
| | <p>to all general industry and construction employers, and they also apply to all state and local government employers as well. The Department anticipates that some localities in their role as a public sector employer would have to incur the additional cost of securing first aid and CPR training.</p> <p>Such training is readily available. As an example, in 2007 the Central Virginia Chapter of the American Red Cross currently charges \$38.00 for adult first aid training and \$41.00 for adult CPR training. The Central Virginia Chapter also offers a combined first aid/CPR course for \$60.00. However, the provision in the proposed regulation that exempts employers that do not have job classifications or workplace hazards that expose employees to serious physical harm or death, also applies to localities (e.g. employees in office settings), and reduces costs associated with compliance. In addition, the proposed regulation allows an employer to make written arrangements with other contractors/employers on the same job site to provide designated employees to serve as first aid/CPR responders to lessen the cost of compliance with the regulation.</p> |
| <p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p> | <p>Under the proposed regulation employers with employees in job classifications or exposed to workplace hazards that could result in serious physical harm or death would be required to have at each job site and for each work shift at least one employee trained in first aid and CPR.</p> <p>As noted in the “Purpose” section above and discussed further below, the current first aid regulations, which are identical to their federal OSHA counterparts, apply to all general industry and construction employers. The current regulations have been interpreted by federal OSHA to mean that all general industry and construction employers must have <u>either an employee trained in first aid, or:</u></p> <p style="padding-left: 40px;">their worksite must be located within a 3 to 4 minute response time of a hospital, clinic or infirmary if the worksite contains workplace hazards that could cause life threatening injuries; <u>or</u></p> <p style="padding-left: 40px;">their worksite must be located within a 15 minute response time of a hospital, clinic,</p> |

| | |
|--|--|
| | <p>or infirmary if the worksite does not contain workplace hazards that could cause life threatening injuries.</p> <p>Based on 2003 statistics from the Department of Emergency Medical Services website, the average response time for emergency calls in Virginia was approximately 12 minutes. More recent statistics provided by EMS to the Department for the years 2004 through 2006 indicate the average EMS response time for all cases statewide has been approximately 9 minutes for the last three years (more than twice the 3-4 minute response time required for life threatening injuries), while the average response time to industrial sites falls between 7 and 7.5 minutes (a minimum of 75% above the 3-4 minute requirement). Furthermore, for all cases statewide only 12.5 to 13% of the responses occur within the 3-4 minute requirement for life threatening injuries, while from 19 to 21% of the responses occur to industrial sites within the 3-4 minute requirement.</p> <p>Based on the above EMS figures, the department believes that most Virginia establishments and work sites with hazards that could cause life threatening injuries cannot meet the 3 to 4 minute interpretation requirement under the current regulations, and are therefore required by current regulations to provide a trained first aid responder. They are not required by current regulations to provide CPR training as well, so they would have to incur the additional cost of providing CPR training, if such training is not currently provided. One estimate for CPR training is \$38.00 - provided by the Central Virginia Chapter of the American Red Cross.</p> <p>During calendar year 2005, out of a total of 3,379 inspections conducted by the VOSH Program, 17 violations of §16 VAC 25-90-1910.151(b) in General Industry and 424 violations of §16 VAC 25-175-1926.50(c) in the Construction Industry for a total of 541 first aid violations. A total of 16 % of all VOSH inspections received first aid violations under the current regulations. Though not conclusive, the VOSH inspections support a conclusion that many Virginia employers already have employees trained in first aid, or fall within the category of not having any hazards on site that could cause life threatening injuries.</p> |
|--|--|

| | |
|--|---|
| | <p>Employers in the following industries are required by current regulations to assure the immediate presence of first aid and CPR trained employee(s) at their worksites:</p> <p>Logging Electric Power Generation, Transmission and Distribution (General Industry) Power Generation and Distribution (Construction Industry) Welding, Cutting and Brazing Telecommunications Temporary Labor Camp (Migrant Labor) Commercial Dive Operation Underground Construction, Caissons, Cofferdams and Compressed Air</p> <p>Also, costs associated with the current regulations will be eliminated for employers on worksites where there are no hazards that could result in serious physical harm or death, by excluding such worksites from coverage (e.g. employers/employees in office settings).</p> |
| <p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p> | <p>Based on 2nd quarter 2006 statistics from the Virginia Employment Commission (VEC), there were 215,950 employers in Virginia. Approximately 99.97% of those employers qualify as small businesses. The Department estimates that approximately 150,000 small business establishments will be affected by the proposed regulations.</p> |
| <p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p> | <p>Based on the EMS figures discussed above, the department believes that most Virginia establishments and work sites with hazards that could cause life threatening injuries cannot meet the 3 to 4 minute requirement under the current regulations, and are therefore required by current regulations to provide a trained first aid responder. Employers, with the exceptions noted below, are not required by current regulations to provide CPR training as well, so they would have to incur the additional cost of providing CPR training, if such training is not currently provided. One 2007 estimate for CPR training is \$38.00 - provided by the Central Virginia Chapter of the American Red Cross.</p> <p>Employers in the following industries are required by current regulations to assure the immediate</p> |

| | |
|--|---|
| | <p>presence of first aid and CPR trained employee(s) at their worksites and would have no new costs imposed on them by the proposed regulations:</p> <p>Logging Electric Power Generation, Transmission and Distribution (General Industry) Power Generation and Distribution (Construction Industry) Welding, Cutting and Brazing Telecommunications Temporary Labor Camp (Migrant Labor) Commercial Dive Operation Underground Construction, Caissons, Cofferdams and Compressed Air</p> <p>Costs associated with compliance with the proposed regulation will be lessened by the specific language in the proposal that allows an employer to make written arrangements with another contractor/employer on the same job site to provide designated employees to serve as first aid responders.</p> <p>While many employers in construction and general industry already assure that some employees are trained in first aid and CPR, some employers would have to incur the additional cost of securing such training. As an example, in 2007 the Central Virginia Chapter of the American Red Cross currently charges \$38.00 for adult first aid training and \$41.00 for adult CPR training. The Central Virginia Chapter also offers a combined first aid/CPR course for \$60.00.</p> <p>Costs associated with the current regulation will be eliminated for approximately 65,000 establishments, or 30% of all industries, because they would likely fall within the exemption in the proposed regulation for employers that do not have job classifications or work site hazards that could result in serious physical harm or death to employees, and will be therefore excluded from coverage, e.g., financial activities, professional and business services, leisure and hospitality and public administration. The current regulation is interpreted by federal OSHA to require low hazard employers to provide first aid if no medical assistance can be provided within 15 minutes by EMS or other personnel.</p> |
|--|---|

| | |
|--|--|
| | <p>However, it should be noted that within a particular industry that is normally considered to be low hazard, there may be some specific worksites or portions of establishments that have job classifications or workplace hazards that could trigger application of the proposed regulation (e.g., a large department store that has service personnel who deal directly with customers who would not be exposed to serious or life threatening hazards, may also have warehouse personnel who operate forklifts who are exposed to such hazards; a large grocery or supermarket have retail clerks who would not be covered by the proposed regulations, but may have forklift operators, or other employees that use potentially dangerous equipment such as a meat slicing machine).</p> |
|--|--|

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The only alternative considered would be to leave the current regulatory language in effect. This would result in the continued current disparity in medical services and first aid protection for employees where first aid responders are not required to be trained in CPR, and interpretations of the current regulations would allow an employer to comply with the regulation by opting to move an employee who had suffered a head or spinal injury by transporting them to a medical facility in an area where emergency medical responders were not available within the prescribed 3 to 4 minute time limit, in lieu of having a trained first aid responder present.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The current general industry regulation is overreaching in that it applies to all general industry employers, even when there are no workplace hazards present that could pose a threat of serious physical harm or death, such as in office settings (it should be noted that, with rare exceptions, construction worksites are universally acknowledged to contain both job classifications and workplace hazards that are likely to

cause death or serious physical harm). The proposed regulations will exclude worksites that do not contain such serious hazards from the requirement to provide designated employees with first aid and CPR training.

Where there is the issue of “one man facilities”, the proposed amendments attempt to provide some regulatory flexibility to affected employers by providing the employer with the option of either training the employee in first aid, making written arrangements with other employers or contractors at the worksite to provide first aid and CPR, or assuring that their employee has access to a communication system that will allow them to immediately request medical assistance through a 911 emergency call or comparable communications system.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

| Commenter | Comment | Agency response |
|---|--|--|
| <p>1 Mr. Gregory Stull Air Products & Chemicals, Inc. (email inquiry)</p> | <p>1 The commenter represents a company that has several “one man” facilities, located on their customers’ sites, which are not manned on a daily basis. His company relies on their customers’ emergency services. If this new regulation is intended to cover all “general industry”, is there a minimum on site employee requirement?</p> | <p>1 The language in the proposed amendments address the issue of “one man facilities” by providing the employer with the option of either training the employee in first aid (but not CPR), making written arrangements with other employers or contractors at the worksite to provide first aid and CPR, or assuring that their employee has access to a communication system that will allow them to immediately request medical assistance through a 911 emergency call or comparable communication system.</p> <p>This issue is particularly problematic from a regulatory standpoint. The optimal solution for assuring prompt delivery of first aid and CPR services, and the one presented in the proposed regulations, is the presence of a trained individual at the worksite. However, it is the nature of these “one man facilities” that they often work alone or in remote areas. Obviously a single employee cannot administer CPR to himself or treat certain other injuries or illnesses. However, an individual trained in first aid can self-administer first aid to serious cuts resulting in loss of blood, wrap or set a broken bone, apply a tourniquet, etc. The rationale for giving employers the above options is a recognition of the difficulties posed in providing first aid protections for one man facilities, and an attempt to provide some regulatory flexibility to such employers.</p> |
| <p>2 Mr. Donald L.</p> | <p>2a</p> | <p>2a</p> |

| | | |
|--|---|--|
| <p>Hall, Virginia Automobile Dealer's Association (VADA)</p> | <p>VADA does not disagree with the general principal of improving already safe workplaces; however, VADA is very concerned the proposed changes will have unintentioned and costly consequences for Virginia motor vehicle dealers.</p> | <p>As discussed in the "Purpose" section, VADA members are covered by the current first aid regulation and must either provide a first aid trained employee on the worksite or be within the prescribed response time distance to a hospital, infirmary, etc. According to federal OSHA interpretation of the current regulation, for serious life threatening injuries/illnesses the response time is 3-4 minutes, for non serious injuries/illnesses the response time is 15 minutes. According to statistics from the Department of Emergency Medical Services (EMS) for 2003, EMS providers arrived at the scene of 522,345 calls with an average response time of approximately 12 minutes. Approximately 72 % of all reported calls were provided in less than 10 minutes, and approximately 87 % of all reported calls were provided in less than 15 minutes.</p> <p>More recent statistics provided by EMS to the Department for the years 2004 through 2006 indicate the average EMS response time for all cases statewide has been approximately 9 minutes for the last three years (more than twice the 3-4 minute response time required for life threatening injuries), while the average response time to industrial sites falls between 7 and 7.5 minutes (a minimum of 75% above the 3-4 minute requirement). Furthermore, for all cases statewide only 12.5 to 13% of the responses occur within the 3-4 minute requirement for life threatening injuries, while from 19 to 21% of the responses occur to industrial sites within the 3-4 minute requirement.</p> <p>Based on the above EMS figures, the Department believes that most Virginia establishments and work sites with hazards that pose life threatening injury to employees cannot meet the 3 to 4 minute requirement under the current regulations, and are therefore required by current regulations to provide a trained first aid responder. However, they are not required by current regulation to provide CPR training.</p> <p>While some VADA members will have employees already trained in first aid and CPR, some employers would have to incur the cost of securing such training if their worksite is classified as one where employees are exposed to occupational hazards which could result in serious physical harm or death. It should also be noted that any VADA member with a vehicle maintenance or repair facility that engages in the activities of welding, cutting or brazing (e.g. for removal, fabrication, and installation of exhaust systems and mufflers), are required by current regulations to render first aid</p> |
|--|---|--|

| | | |
|--|---|--|
| | <p>2b “Motor vehicle dealer service departments are not hazardous occupations under existing federal or Virginia regulations. See 16 VAC 15-30-10, <u>et seq.</u>”</p> <p>3 The Department of Labor and Industry takes the enforcement position that motor vehicle service departments are highly hazardous occupations and that first aid and CPR training is required. This position is based on a department publication listing automobile mechanics among the most hazardous occupations in Virginia. See Most Hazardous Occupations, Virginia, 2000 (Oct. 11, 2006) on the Department’s website. He stated that identifying motor vehicle dealer occupations as hazardous cannot be done without a formal rulemaking designating such dealer occupations to be hazardous.</p> | <p>until medical attention can be provided, §16 VAC 25-90-1910.252(c)(13), Welding, Cutting and Brazing.</p> <p>2b The Department’s VOSH Program has not, through regulation or statute, defined the term “hazardous occupations”. The term “hazardous occupations” is not contained in the proposed regulations.</p> <p>The regulation cited by the commenter, 16 VAC 15-30-10, <u>et seq.</u>, is promulgated by the Commissioner of Labor and Industry for the enforcement of child labor laws in the Commonwealth and has applicability to child labor only. This child labor regulation is not part of the body of statutes and regulation that is applicable to occupational safety and health enforcement in the Commonwealth by VOSH. All occupational safety and health standards, rules and regulations for Virginia’s OSHA State Plan are required to be promulgated by the Safety and Health Codes Board which is the mandated rulemaking body (<i>see Code of Virginia §40.1-22</i>).</p> <p>As noted above, any VADA member with a vehicle maintenance or repair facility that engages in the activities of welding, cutting or brazing (e.g. for removal, fabrication, and installation of exhaust systems and mufflers), are required by current regulations to render first aid until medical attention can be provided, §16 VAC 25-90-1910.252(c)(13), Welding, Cutting and Brazing.</p> <p>3 The commenter’s assertion that the Department has assumed that motor vehicle service departments are highly hazardous occupations is in error. The referenced website listing of the most hazardous occupations, simply notes the occupations with the greatest number of fatalities in the Commonwealth that year for general informational purposes. The list has not been used in determining our emphasis programs or general inspection program priorities, nor has it been used to date as a method to compile a list of hazardous occupations.</p> <p>In regard to the statement that there has been no state agency finding auto dealer occupations to be hazardous, any such determination, for the purposes of occupational safety and health, would be solely the responsibility of DOLI and OSHA.</p> |
|--|---|--|

| | | |
|--|---|---|
| | <p>4. "...VADA is very concerned that the Department's proposed extension of the §1910.151 standard to 'employees in hazardous occupations' and to worksites containing job classifications or</p> | <p>After receipt of the VADA comment, the Department conducted a review of fatal and catastrophic accidents for the period 1996 to 2007 involving mechanics (not limited to VADA members or auto dealerships as a whole) and auto and truck dealerships revealed the following descriptions of the accidents:</p> <ul style="list-style-type: none"> * A mechanic for an auto dealership was killed on when a vehicle he was working on in a service bay slid off the lift and struck the victim causing fatal crushing injuries. * An employee at a truck dealership was killed while using a forklift when it overturned. * A driver was killed while attempting to off load a full-sized pickup truck from a tractor trailer full of vehicles. The victim became caught between the truck door and the cab post. * A mechanic at a truck repair shop was killed while looking for the part number on an air bag for brakes underneath a tractor trailer. The driver went to move the trailer and ran over the victim. * A mechanic was killed while attempting to install wooden blocks under the belly pan of a bulldozer when the hydraulic system failed, causing the bulldozer to fall on the victim. * Three employees were killed at auto repair shop while welding near a 275 gallon fuel oil tank. * Two mechanics in an auto repair shop were killed while working in a pit changing a fuel pump on a van when some of the fuel was ignited by an unidentified ignition source. * Mechanic killed when elevated bulldozer he was working on fell on him. * Mechanic killed at auto repair shop was repairing a gasoline tank on a van when the gasoline fumes were apparently ignited by an LPG gas heater, resulting in a fire and explosion. * Three employees were seriously injured at automotive garage when employees used gasoline as accelerant to start a rubbish fire. * Mechanic killed when he was backed over by a dump truck after servicing the vehicle. * Subcontractor employee killed at an auto dealership while working on a sign from an aerial lift when the lift contacted an overhead high voltage line. <p>4. Any VADA member with a vehicle maintenance or repair facility that engages in the activities of welding, cutting or brazing (e.g. for removal, fabrication, and installation of exhaust systems and</p> |
|--|---|---|

| | | |
|--|---|--|
| | <p>workplace hazards that would ‘expose employees to serious physical harm or death’ will have unintended and costly consequences for Virginia motor vehicle dealers.”</p> <p>5. A regulation that imposes additional designated first aid and CPR responders to be on duty at all times to an industry that is located where timely emergency service is nearly universal will be highly burdensome and a potentially serious personnel problem.</p> | <p>mufflers), are required by current regulations to render first aid until medical attention can be provided, §16 VAC 25-90-1910.252(c)(13), Welding, Cutting and Brazing.</p> <p>In addition, all general industry occupations, including those such as auto mechanics, auto body repairmen, general office workers, parts clerks, sales staff, customer service associates, and building maintenance personnel are already covered by the §16 VAC 25-90-1910.151 regulation and have been so covered since the § 16 VAC 25-90-1910.151 regulation’s initial inception by federal OSHA in 1974 (<i>See 39 Fed Reg 33466</i>). One impact of the proposed regulation would be that worksites covered by the current regulations that do not contain occupational hazards which could result in serious physical harm or death will be exempted from first aid and CPR requirements under the proposed regulation.</p> <p>5. Any VADA member with a vehicle maintenance or repair facility that engages in the activities of welding, cutting or brazing (e.g. for removal, fabrication, and installation of exhaust systems and mufflers), are required by current regulations to render first aid until medical attention can be provided, §16 VAC 25-90-1910.252(c)(13), Welding, Cutting and Brazing.</p> <p>VOSH concurs that many dealerships have personnel trained in first aid and CPR. The response time for emergency responders will vary widely around the state and is dependant upon factors such as whether the establishment or worksite is in an urban or rural location, and whether the medical/emergency response facility is staffed 24 hours a day. This response time is further impacted by such variables as traffic congestion, road construction and weather. According to statistics from the Department of Emergency Medical Services (EMS) for 2003, EMS providers arrived at the scene of 522,345 calls with an average response time of approximately 12 minutes. Approximately 72 % of all reported calls were provided in less than 10 minutes, and approximately 87 % of all reported calls were provided in less than 15 minutes.</p> <p>More recent statistics provided by EMS to the Department for the years 2004 through 2006 indicate the average EMS response time for all cases statewide has been approximately 9 minutes for the last three years (more than twice the 3-4</p> |
|--|---|--|

| | | |
|--|--|---|
| | <p>6. “We ask that any proposed rulemaking proceeding eliminate motor vehicle dealers from consideration.”</p> | <p>minute response time required for life threatening injuries), while the average response time to industrial sites falls between 7 and 7.5 minutes (a minimum of 75% above the 3-4 minute requirement). Furthermore, for all cases statewide only 12.5 to 13% of the responses occur within the 3-4 minute requirement for life threatening injuries, while from 19 to 21% of the responses occur to industrial sites within the 3-4 minute requirement.</p> <p>Based on the above EMS figures, the Department believes that most Virginia establishments and work sites with hazards that pose life threatening injury to employees cannot meet the 3 to 4 minute requirement under the current regulations, and are therefore required by current regulations to provide a trained first aid responder. However, they are not required by current regulation to provide CPR training.</p> <p>6. Any VADA member with a vehicle maintenance or repair facility that engages in the activities of welding, cutting or brazing (e.g. for removal, fabrication, and installation of exhaust systems and mufflers), are required by current regulations to render first aid until medical attention can be provided, §16 VAC 25-90-1910.252(c)(13), Welding, Cutting and Brazing.</p> <p>The comments offered by VADA fail to provide a substantive argument for exempting automotive dealerships from the proposed regulatory amendments. There does not appear to be a rationale to provide less protection to auto dealership employees (such as mechanics) than would be provided to similarly situated employees in other industries.</p> |
|--|--|---|

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This proposed regulation has no potential impact on the institution of the family or family stability.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
|-------------------------------|---|----------------------------|--------------------------------------|
|-------------------------------|---|----------------------------|--------------------------------------|

| | | |
|--|--|--|
| | <p>16 VAC 25-95 C.</p> <p>16 VAC 25-95 D.</p> <p>16 VAC 25-95 E.</p> <p>16 VAC 25-95 F.</p> <p>16 VAC 25-95 G.</p> | <p><u>American Red Cross, the National Safety Council, or equivalent training that can be verified by documentary evidence, and shall be available at the worksite to render first aid and CPR to injured or ill employees.</u></p> <p><u>C. Covered employers are permitted to make written arrangements with and reasonably rely on another contractor or employer on the same job site or establishment to provide designated employees to serve as first aid and CPR responders for employees of the covered employer.</u></p> <p><u>D. Employers of mobile work crews (i.e., crews that travel to more than one worksite per day) of two or more employees that assign employees to travel to worksites or engage in work activities that could potentially expose those employees to serious physical harm or death shall either:</u></p> <ol style="list-style-type: none"> <u>1. assure that at least one employee on the mobile crew is designated and adequately trained to render immediate first aid and CPR during all workshifts;</u> <u>or</u> <u>2. comply with section C. above.</u> <p><u>E. Employers of individual mobile employees (i.e. an employee who travels alone to more than one worksite per day) that assign employees to travel to worksites or engage in work activities that could potentially expose those employees to serious physical harm or death shall either:</u></p> <ol style="list-style-type: none"> <u>1. assure that the mobile employee is adequately trained to self-administer first aid;</u> <u>2. comply with section C. above; or</u> <u>3. assure that their employee has access to a communication system that will allow them to immediately request medical assistance through a 911 emergency call or comparable communication system.</u> <p><u>F. Sections A. through E. of this regulation do not apply to worksites that do not contain job classifications or workplace hazards that expose employees to serious physical harm or death.</u></p> <p><u>G Adequate first aid supplies shall be readily available.</u></p> <p><u>Rationale:</u> Proposed changes in sections B. –G. provide additional first aid and CPR services to</p> |
|--|--|--|

| | | | |
|--|------------------------|---|---|
| <p>16 VAC 25-175-1926.50 (a)</p> <p>16 VAC 25-175-1926.50 (b)</p> <p>16 VAC 25-175-1926.50 (c)</p> | <p>16 VAC 25-95 H.</p> | <p>(a) The employer shall insure the availability of medical personnel for advice and consultation on matters of occupational health.</p> <p>(b) Provisions shall be made prior to commencement of the project for prompt medical attention in case of serious injury.</p> <p>(c) In the absence of an infirmary, clinic, hospital, or physician, that is reasonably accessible in terms of time and distance to the worksite, which is available for the treatment of injured employees, a person who has a valid certificate in first-aid training from the U. S. Bureau of Mines, the American Red Cross, or equivalent training that can be verified by documentary evidence, shall be available at the worksite to render first aid.</p> | <p>employees exposed to hazards that could result in serious physical harm or death and provide employers with some flexibility to make arrangements for first aid and CPR training for designated first aid providers. The proposed regulations also exclude certain employers from the requirement to provide first aid and CPR training if their employees are not exposed to hazards that could cause death or serious physical harm. Proposed changes also provide clarification of requirements for employers of mobile crews and individual mobile employees.</p> <p><u>H. Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use.</u></p> <p>Rationale: 16 VAC 25-90-1910.151(c) and 16 VAC 25-95.H contain identical language.</p> <p>16 VAC 25-175-1926.50, Medical Services and First Aid</p> <p>(a) The employer shall insure the availability of medical personnel for advice and consultation on matters of occupational health.</p> <p>(b) Provisions shall be made prior to commencement of the project for prompt medical attention in case of serious injury.</p> <p>(c) In the absence of an infirmary, clinic, hospital, or physician, that is reasonably accessible in terms of time and distance to the worksite, which is available for the treatment of injured employees, a person who has a valid certificate in first aid training from the U. S. Bureau of Mines, the American Red Cross, or equivalent training that can be verified by documentary evidence, shall be available at the worksite to render first aid.</p> |
|--|------------------------|---|---|

| | | | |
|---|--|--|---|
| <p>16 VAC 25-175-1926.50 (d)(1)</p> | | <p>(d)(1) First aid supplies shall be easily accessible when required.</p> | <p>(d)(1) First aid supplies shall be easily accessible when required.</p> |
| <p>16 VAC 25-175-1926.50 (d)(2)</p> | | <p>(d) (2) The contents of the first aid kit shall be placed in a weatherproof container with individual sealed packages for each type of item, and shall be checked by the employer before being sent out on each job and at least weekly on each job to ensure that the expended items are replaced.</p> | <p>(d) (2) The contents of the first aid kit shall be placed in a weatherproof container with individual sealed packages for each type of item, and shall be checked by the employer before being sent out on each job and at least weekly on each job to ensure that the expended items are replaced.</p> |
| | | <p>(e) Proper equipment for prompt transportation of the injured person to a physician or hospital, or a communication system for contacting necessary ambulance service, shall be provided.</p> | <p>(e) Proper equipment for prompt transportation of the injured person to a physician or hospital, or a communication system for contacting necessary ambulance service, shall be provided.</p> |
| | | <p>(f) In areas where 911 is not available, the telephone numbers of the physicians, hospitals, or ambulances shall be conspicuously posted.</p> | <p>(f) In areas where 911 is not available, the telephone numbers of the physicians, hospitals, or ambulances shall be conspicuously posted.</p> |
| | | <p>(g) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use.</p> | <p>(g) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use.</p> |
| | | | <p><u>Rationale:</u> Current regulation above is being replaced by new regulatory language below.</p> |

| | | | |
|-----------------------------|--|--|--|
| <p>16 VAC 25-177 A.</p> | | | <p><u>16 VAC 25-177, Medical Services and First Aid for the Construction Industry</u></p> <p><u>A. The employer shall insure the availability of medical personnel for advice and consultation on matters of occupational health.</u></p> |
| <p>16 VAC 25-177 B.</p> | | | <p><u>Rationale: 16 VAC 25-175-1926.50(a) and 16 VAC 25-177.A contain identical language.</u></p> <p><u>B. Provisions shall be made prior to commencement of the project for prompt medical attention in case of serious injury.</u></p> |
| <p>16 VAC 25-177 C.</p> | | | <p><u>Rationale: 16 VAC 25-175-1926.50(b) and 16 VAC 25-177.B contain identical language.</u></p> <p><u>C. A person or persons shall be designated by the employer and adequately trained to render immediate first aid and cardio pulmonary resuscitation (CPR) during all workshifts on worksites containing job classifications or workplace hazards that could potentially expose employees to serious physical harm or death. The designated person or persons shall have a valid, current certificate in first aid and CPR training from the U. S. Bureau of Mines, the American Red Cross, the National Safety Council, or equivalent training that can be verified by documentary evidence, and shall be available at the worksite to render first aid and CPR to injured or ill employees.</u></p> |
| <p>16 VAC 25-177 D.</p> | | | <p><u>D. Covered employers are permitted to make written arrangements with and reasonably rely on another contractor or employer on the same job site or establishment to provide designated employees to serve as first aid and CPR responders for employees of the covered employer.</u></p> |
| <p>16 VAC 25-177 E.</p> | | | <p><u>E. Employers of mobile work crews (i.e., crews that travel to more than one worksite per day) of two or more employees that assign employees to travel to worksites or engage in work activities that could potentially expose those employees to serious physical harm or death shall either:</u></p> <ol style="list-style-type: none"> <u>1. assure that at least one employee on the mobile crew is designated and adequately trained to render immediate first aid and CPR during all workshifts;</u> <u>or</u> <u>2. comply with section D. above.</u> |

| | | | |
|--|-----------------------------|--|--|
| | <p>16 VAC 25-177 F.</p> | | <p><u>F. Employers of individual mobile employees (i.e. an employee who travels alone to more than one worksite per day) that assign employees to travel to worksites or engage in work activities that could potentially expose those employees to serious physical harm or death shall either:</u></p> <ol style="list-style-type: none"> <u>1. assure that the mobile employee is adequately trained to self-administer first aid;</u> <u>2. comply with section D. above; or</u> <u>3. assure that their employee has access to a communication system that will allow them to immediately request medical assistance through a 911 emergency call or comparable communication system.</u> |
| | <p>16 VAC 25-177 G.</p> | | <p><u>G. Sections A. through F. of this regulation do not apply to worksites that do not contain job classifications or workplace hazards that expose employees to serious physical harm or death.</u></p> <p><u>Rationale:</u> Proposed changes in sections C. – H. provide additional first aid/CPR services on individual work sites and exclude certain employers from the requirement to provide first aid and CPR training if there are no hazards at the worksite could result in death or serious physical harm to employees. The proposed changes provide employers with some flexibility to make arrangements for first aid/CPR services on individual work sites. The proposed changes also provide clarification of requirements for employers of mobile crews and individual mobile employees.</p> |
| | <p>16 VAC 25-177 H.</p> | | <p><u>H. Adequate first aid supplies shall be readily available.</u></p> <p><u>Rationale:</u> Changes to this section bring the construction first aid/CPR standard in line with its general industry counterpart so that identical protections are provided to employees.</p> |
| | <p>16 VAC 25-177 I.</p> | | <p><u>I. The contents of the first aid kit shall be placed in a weatherproof container with individual sealed packages for each type of item, and shall be checked by the employer before being sent out on each job and at least weekly on each job to ensure that the expended items are replaced.</u></p> |

| | | | |
|--|---|--|---|
| | <p>16 VAC 25-177 J.</p> <p>16 VAC 25-177K.</p> <p>16 VAC 25-177L.</p> | | <p><u>Rationale:</u> Substituted the original designations (d)(1) and (d)(2) for new sections H. and I. to conform to the revised numbering scheme of the proposed regulation.</p> <p><u>J. A communication system for contacting necessary ambulance service shall be provided.</u></p> <p><u>Rationale:</u> Substituted the original designations (e) for new section J. to conform to the revised numbering scheme of the proposed regulation. The modified language retains the requirement that assures that employees have access to a communication system that will allow them to immediately request medical assistance through a 911 emergency call or comparable communication system. The new language removes the option to have vehicles available to transport a victim to a physician or hospital in lieu of a communication system. Cellular and satellite telephone technology is now widely available, and accessible. In addition, the current regulation language could be read to permit an employer to move an accident victim who had suffered head or spinal cord injuries or other serious injuries, which could be exacerbated by such movement or transportation before proper medical attention had been provided by EMS personnel to stabilize the injury.</p> <p><u>K. In areas where 911 is not available, the telephone numbers of the physicians, hospitals, or ambulances shall be conspicuously posted.</u></p> <p><u>Rationale:</u> 16 VAC 25-175-1926.50(f) and 16 VAC 25-177.K contain identical language.</p> <p><u>L. Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use.</u></p> <p><u>Rationale:</u> 16 VAC 25-175-1926.50(g) and 16 VAC 25-177.L contain identical language.</p> |
|--|---|--|---|

